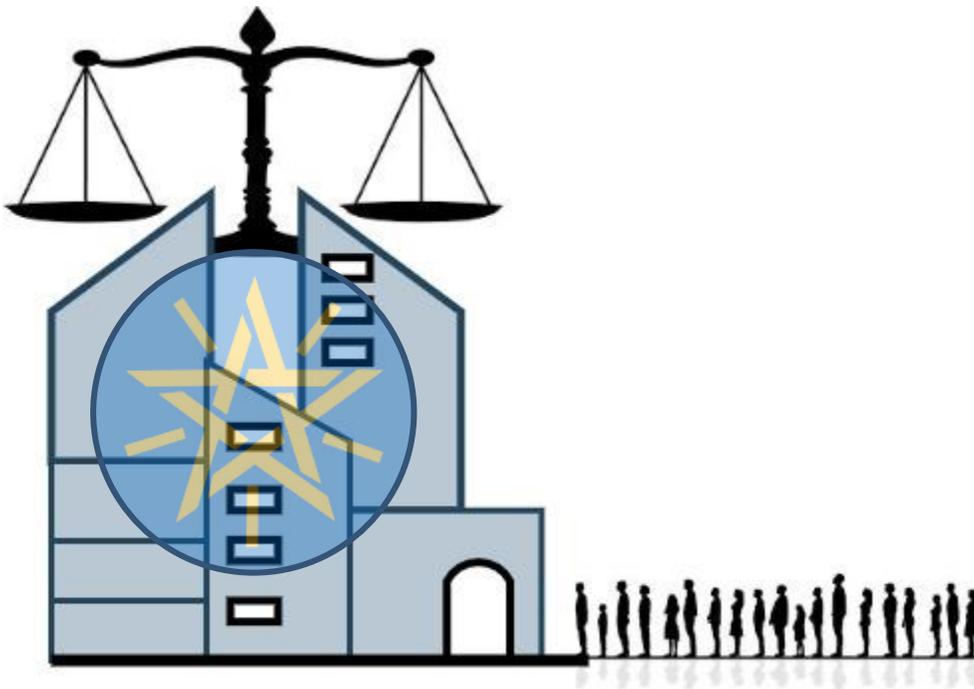


Administrative Procedure Law

National Implementation Plan

Federal Democratic Republic of Ethiopia

(DRAFT)



Prepared by:



በአፌዴሪ ጠቅላይ አቃቤ ሕግ
የሕግና ፍትህ ጉዳዮች አማካሪ ጉባኤ



Legal and Justice Affairs Advisory Council
Federal Attorney General



Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH

Addis Ababa, Ethiopia
September 2020



TABLE OF CONTENTS

Contents

TABLE OF CONTENTS	Page
LIST OF ABBREVIATIONS	1
I. Introduction	2
II. The Mandate and Brief Description of the Legislation	3
III. Objectives of the Implementation Plan	4
IV. Key Roles in the Implementation Process	5
V. Key Steps of the Implementation Process	6
5.1 Transubstantiation of the Law	7
5.2 Preparing Administrative Staff	8
5.3 Preparing Citizens	8
5.4 Developing Directives and Internal Guidelines	9
5.5 Making Infrastructure and Equipment Changes	9
5.6 Making Organizational Changes	10
5.7 Training of All Key Staff involved in Implementation	10
5.8 Monitoring and Evaluation	11
VII. Conclusions	13



LIST OF ABBREVIATIONS

AAs	Administrative Agencies
AGO	Attorney General's Office
CSOs	Civil Society Organizations
GIZ	German Development Cooperation
HRC	Human Rights Commission
LJAAC	Legal and Justice Affairs Advisory Council
JLRTI	Justice and Legal Research and Training Institute

I. Introduction

Ethiopia has been undergoing major political changes. Following the appointment of Prime Minister Abiy Ahmed in 2018, a significant number of reforms in different sectors have been undertaken. The Justice Sector is undergoing widespread reform the purpose of which is to restore public confidence in the justice system. To lend credibility and mobilize human resources for this reform process, the Attorney General's Office (AGO) has put in place a Legal and Justice Affairs Advisory Council (LJAAC) enabling over 210 lawyers to volunteer their expertise and contribute to the reform process. It is in this context, that the Attorney General's Office has requested the support of the GIZ Governance Fund in the legal and justice system reform process and has mandated the LJAAC to coordinate this support as part of the latter's implementation-support program.

This document was prepared with the aim of providing better capabilities allow the government to be able to implement the new Administrative Procedure Proclamation in a coordinated and flexibly sequenced manner. The draft implementation plan is meant to provide a "big picture" of the components of the implementation of this law but also contains enough details of the different activities which can be implemented separately, in case the level of coordination assumed in the plan is not realized.

Following a scoping study to identify different stakeholders, a first workshop was held on March 2020 in Addis Ababa, focused on the implementation of the then draft Administrative Procedure Proclamation, which has been passed by the Ethiopian Parliament in April 2020. The workshop brought together key stakeholders to define a process for the implementation of the reforms in the administrative procedure law and outline key elements of a joint action plan for the implementation process.

Following this workshop, several working sessions were held between LJAAC staff, the Working Group that drafted the new law, and Dr. Birgit Grundmann and other experts and staff from the GIZ Governance Fund program. The present draft implementation plan is the result of the conclusions of the March 3rd workshop as well as the working sessions. This document intends to convey what implementing the Administrative Procedure Law should look like and identify necessary steps to be taken. In addition to this, calls for the formation of a leading taskforce that

may take ownership of this process and the collaboration of all relevant stakeholders in the implementation of this law.

II. The Mandate and Brief Description of the Legislation

The Administrative Procedure Law of Ethiopia also known as Proclamation No 1183/2020 Federal Administrative Procedure Proclamation was enacted on the 7th of April 2020. This occasion can be said without a doubt a momentous event in Ethiopian legal system. As efforts of enacting this law that lasted for decades was realised.

There are three basic defining ideas found at the time of adoption of the legislation. The first consideration taken gives due regard to administrative agencies having the power to issue legislative documents based on delegation of power bestowed upon by the legislature, and this process needs to be based on a given set of principles and procedures. This would undoubtedly ensure that directives to be issued by AA follow certain sets of standards and failure to do so would render the directives in question ineffective.

The second consideration taken in to account concerns administrative decisions' to be issued by AAs need to follow a given principle and follow procedures. This would ultimately guarantee such decisions are not passed in an arbitrary manner instead adhere to standards indicated under the law.

The third consideration is founded on the belief that procedures that govern the manner in which decisions and directives are to be reviewed in the court of law. The availability of recourse particularly at the hands of the judiciary opens up a channel through which citizens would have an opportunity to have their claims heard. Ultimately, guarantee administrative justice by promoting a culture of transparency and accountability.

As the government, structure is a federal set up and as such, power is distributed to both the federal and regional governments. Each set of governments can pass legislation and establish agencies within their structures' as per the Constitution. The drafters hope that this legislation would pave the way for the regional governments to follow this lead taken by the federal government and enact a law that would govern their respective administrative procedures.

The Attorney General, the military, police, and the intelligence are not governed under this legislation due to the nature of their work and as their responsibilities are primarily linked to law enforcement. Due to their peculiar nature, these government bodies would not fall under ordinary administrative procedures. Instead, its application is limited to the directives and administrative decisions passed by these institutions. On this subject and on exceptional and highly classified matters the National Bank is also qualified among those institutions that would not be governed by this law.

The uniform understanding and application of this law would mold AAs in time to adhere to these principles and refrain from interfering with the rights and interests of citizens. Also, ensure all aspects of public administration are transparent and any failures held to an account. This would enable the government to serve the public interest in an effective manner.

III. Objectives of the Implementation Plan

The overall objective of this implementation plan is to ensure:

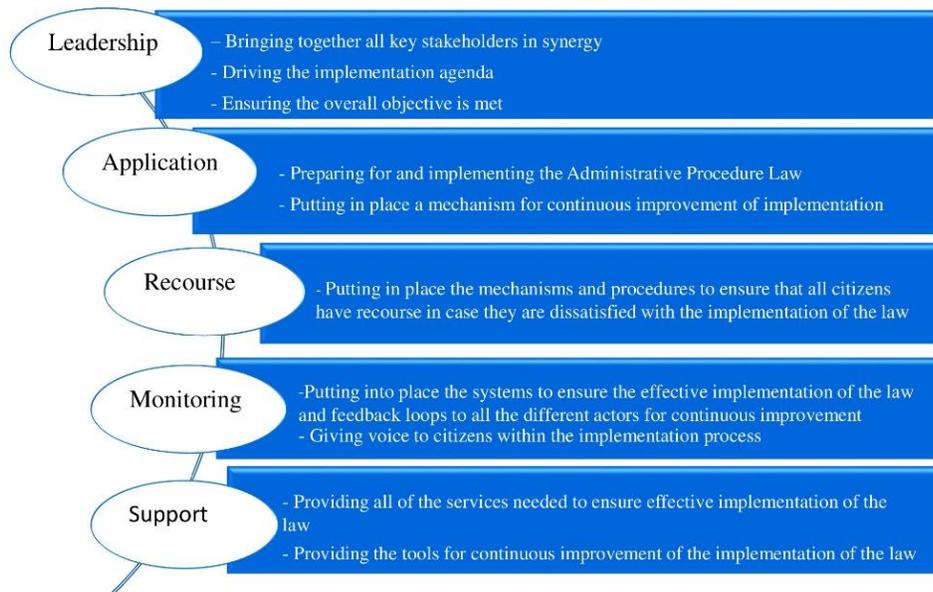
- All AAs implement the Administrative Procedure Law such that citizens of Ethiopia:-
 - Derive all the rights and privileges afforded by the law, and
 - Abide by all the obligations stipulated in the law

There are existing procedures for the implementation of laws in Ethiopia. The objectives of this implementation plan are the following:

Citizens	Administrative Agencies	All other Stakeholders
<ul style="list-style-type: none"> • Are well-informed on the rights and obligations of the law; are provided with the services stipulated in the law; understand all the tools & mechanisms at their disposal as the law is implemented. 	<ul style="list-style-type: none"> • Take ownership of the law and make the institutional culture changes required; implement the law effectively and efficiently, putting into place the services and tools required as quickly as possible. 	<ul style="list-style-type: none"> • Understand their role in the support, enforcement and regulation of the implementation of the law.

IV. Key Roles in the Implementation Process

The effective implementation of the Administrative Procedure Law requires engaging a large number of stakeholders and institutions and playing their respective roles. The key roles required for the implementation process are as follows:



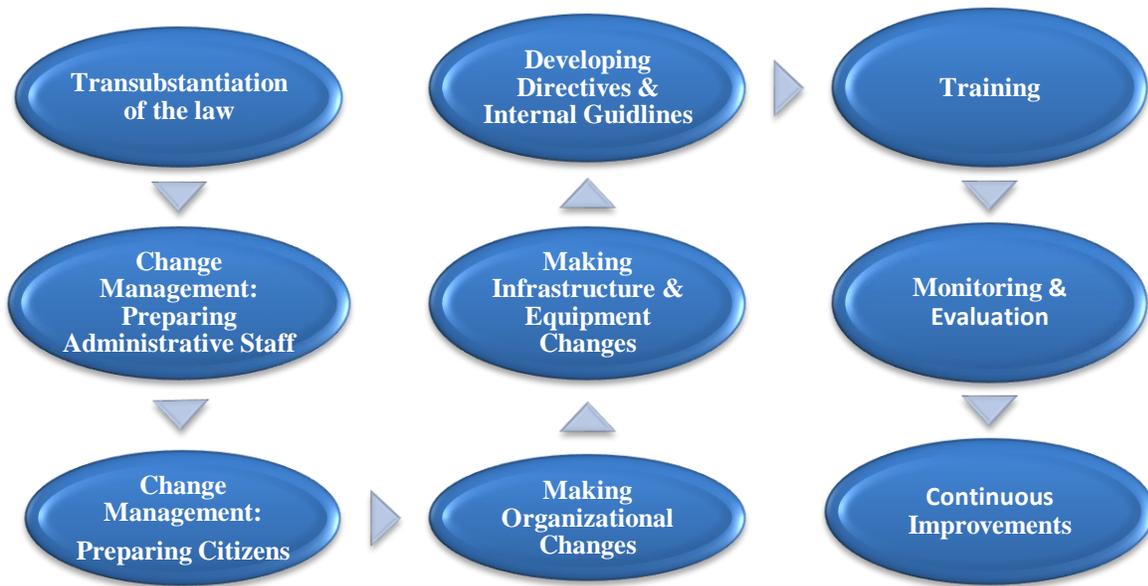
These institutions have different roles to play depending on their respective powers, functions and legal mandates. Given the information provided during the March 3rd workshop, the role attribution could be envisaged as follows.

<i>Role</i>	<i>Institutions</i>
<i>Leadership & Control</i>	Ideally an Implementation Task Force should be put into place led by the PM's Office and including the AGO, HRC, Ombudsman and selected representatives of the Administrative Agencies. This task force would lead and drive the implementation process.

<i>Execution</i>	Executing the implementation plan is the responsibility of those institutions providing direct services to citizens within the framework of this law, notably: AGO and Administrative Agencies
<i>Recourse</i>	Citizens must have the possibility of recourse and institutions responsible for recourse are: Ombudsman, HRC, Courts, Lawyers
<i>Monitoring</i>	It will be important at various levels to monitor the implementation of the Administrative Procedure Law and to provide feedback to the AAs. The following institutions should all be involved in monitoring: AGO, Administrative Agencies, HRC, Ombudsman, CSOs. Media, House of Peoples' Representatives
<i>Support</i>	Effective implementation of the law will require short and long-term training, research, knowledge development in the field of Administrative Procedure Law, public information, campaigns, etc. Support for the implementation of the law should be provided by the following institutions: AGO, Administrative Agencies, Research Institutions, Universities, Consortium of Ethiopian Law Schools, JLRTI, Media, CSOs

V. Key Steps of the Implementation Process

The implementation process will require eight key steps. The following is a summary of the key steps followed by the detailed description of each. Although it is important to note that, the steps listed below are not to be taken in sequence necessarily; some will be carried out simultaneously. (Redo graphic to represent this non-sequential relationship – KW).



These key steps can be described in further detail as follows:

5.1 Transubstantiation of the Law

Description: This step contains within itself two very important components. One of which relates to developing a basic and common understanding of the law. By which all AAs have a uniform and basic grasp of the law at individual as well as systemic level. The second and another important element is establishing a common and at least minimum standard of application of the law. The state of understanding will be reflected in practice and in the way, the AAs engage with the public. This will ultimately shape all civil servants to grow in to and embody a behavior reflecting the standard envisaged within the law.

This step requires an overall “transubstantiation” of the law in to practice, behavioral and systemic change to build a democratic government body and better serve the interests of citizens. This requires for AAs to capture the principles found at the very core the law. When we refer to the “law”, we must also take to account that the Council of Ministers may issue regulations that might be necessary for the proper implementation of this Proclamation.

Key Elements: This step should produce the following documents that will serve as a framework for the implementation of the law.

- **Expose des Motifs** – to be developed by LJAAC and approved by AGO
- **Guidelines** – to be developed by AGO

These normative standards set to govern public administration and the expected changes should be reflected in the field of legal education, curriculum and training. The preparation of the expose des Motifs and guidelines can be used as a yardstick to design and develop legal knowledge related to the field of Administrative Procedure Law. Furthermore, these efforts need to be injected in to curriculum development and legal profession training systems. This task should extend to keeping record, organizing, compiling and publishing of administrative directives and decisions, court opinions and decisions, opinions and decisions passed by the Ombudsman, Human Rights Commission in relation to administrative justice and other sources of jurisprudence in the field of Administrative Procedure Law.

5.2 Preparing Administrative Staff

Description: This step is about equipping admin staff with the knowledge and skillset required to implement the law and eventually creating the cultural shift necessary for the implementation of the law. This brings about an opportunity for all staff members of all levels at AAs, to adhere to a uniform set of professional standards. Affording all staff members with new sense of clarity in relation to their respective duties and ease of understanding.

It is suggested that each AAs as well as the AGO, the HRC, and the Ombudsman, carry out an “Information and Analysis Session on the Administrative Procedure Law.” The objective of this session will be to enable staff to understand the law and its implications on their administration and to get staff buy-in for the implementation of the law.

Key Elements: This step should produce the following key elements.

- an assessment of the institutional changes required
- training needs assessment
- tvaluation of infrastructure and equipment changes needed

Note: Technical assistance could be provided by development partners in the form of a discussion guide to help institutions conduct the information and analysis session.

5.3 Preparing Citizens

Description: This step will ensure that citizens have the information to exercise their rights and fulfill their obligations as afforded by the law. Preparing citizens will involve providing the population with public legal education via mass communication, as well as through civil society and human rights organizations, which can serve as transmission agents.

Key Elements: This step should produce the following key elements.

- translation of the law into local languages
- mass media campaign to inform the population about the law
- public legal education through mass media and through civil society and human rights groups
- the use of art especially popular art in disseminating information and values about administrative justice
- developing feedback mechanisms through the HRC and Ombudsman whereby citizens can easily give information on their experience as users in the implementation of the law

5.4 Developing Directives and Internal Guidelines

Description: This step will ensure that all AAs, the AGO, and executive organs of City Administrations accountable to the Federal Government, develop directives, internal guidelines, procedures and manuals required for the implementation of the law. These key documents will have been identified during the information and analysis session. Each administration will then have to develop, test, and implement them.

Key Elements: In this step, all AAs, The Courts, HRC should produce the following key elements and Ombudsman, may have some implementation documentation of their own to produce:

- **Directives** - to be developed by all AAs
- **Internal guidelines, procedures and manuals** - to be developed by all AAs

- **Standardized Forms/Formulas** - developing standardized forms and formulas (which dictate and constitute contents of the form) used for the purpose of applications, petitions, comments, complaints, appeals etc....

5.5 Making Infrastructure and Equipment Changes

Description: The implementation of the Administrative Procedure Law may, in some administrations require infrastructure and/or equipment changes. These will have been identified during the information and analysis session. In this step, each administration implements the changes identified in order to effectively implement the law and provide services to citizens.

Key Elements: At the end of this step, the infrastructure and equipment should be in place to effectively implement the law and serve citizens. This may include signage and instructions that enable citizens to navigate their way through the services of each administrative agency. In addition, AAs and executive organs of city administrations accountable to the Federal Government need to work on their presence online and make necessary information accessible and available to citizens.

5.6 Making Organizational Changes

Description: The implementation of the administrative procedure law may require some organizational changes. This may include changes in staffing, teams, departments, or other elements of the organization.

5.7 Training of All Key Staff involved in Implementation

Description: It will be important for each AAs to train all staff involved in the implementation of the law. These training sessions will have been identified in the information and analysis session and will vary depending on the AAs.

Key Elements: At the end of this step, the following elements should be produced.

- Training sessions for the various categories of staff
- Training manuals for each category trained

- Employee manuals if deemed necessary for certain categories of staff

Note: A nationwide staff training session is designed by the AGO. As such, this implementation plan needs to take the training plan designed by the AGO in to consideration. The training plan has nationwide coverage including AAs, Courts and regional states.

5.8 Monitoring and Evaluation

Description: It will be important for each AAs to set a trial period of implementation during which monitoring and evaluation will be quite intensive and will enable each institution to make changes and improvements. Once this trial phase is over, the AAs will settle into full implementation.

This Phase requires devising an evaluation framework and the development of tools that would enable to assess the effectiveness of the implementation of the legislation and provide an implementation roadmap on what improvements are required. The objective of the Administrative Procedure Law implementation assessment tool is:

- To establish a comprehensive set of Administrative Procedure Law implementation benchmarks
- Identify the extent to which AAs have implemented the law since its enactment

It will also be necessary for each AAs to set up a mechanism for collecting and analyzing feedback from citizens and its own staff, then using this information for the purpose of continuous improvement. Such mechanisms ought to be adapted by each AAs and to ensure the effectiveness of the agency.

Key Elements: At the end of this step, a system for collecting and analyzing information, also necessary steps to be taken to improve the implementation system should be in place. There is also a need to draft a roadmap that would lay the groundwork for establishing a system for continuous improvement. This roadmap will serve as a guidebook on how to respond to any implementation-related challenges and shortcomings that may arise. Moreover, guarantees the sustainability of these improvement measures. This should be adapted by each AAs, may include elements such as:

- Develop benchmarks to be used as an indicator for an effective implementation
- Periodic surveys
- Complaints division
- Staff feedback meetings
- Reporting and Review
- Draft a roadmap for continuous improvement
- Etc...

VI. Conclusions

The passing of the Administrative Procedure Law is a gigantic step in the reform of Ethiopian governance towards a more democratic and transparent government oriented toward services for the citizen.

The Government and its Administrative Agencies must effectively execute these important legislative steps. The above implementation plan seeks to provide simple, effective steps by which all the stakeholders can begin executing the law within the framework of its underlying principles, which are:

- Improved administrative services to citizens
- Increased transparency
- Improved citizen participation
- Increased efficiency and effectiveness

This implementation plan is flexible and should be adapted to the specific situation in each stakeholder institution.

In this perspective, the implementation of the Administrative Procedure Law will enable Ethiopia to make significant strides in its effort to become a more citizen-centered democracy.

